

Remarks

Favorable reconsideration of this application in view of the remarks below and the amendments to the claims is respectfully requested.

The title "Abstract of the Invention" has been amended to read "Abstract of the Disclosure".

Claims 1-14, 16-20 are rejected under 35 U.S.C. 112, second paragraph as being indefinite. The basis of the rejection is that the term "low" is indefinite and that it is unclear if inhibitor is a film former. This rejection is discussed serially below.

1. The term "low" is indefinite. Claim 1 has been amended to call for from about 2% to about 15% surfactant. Basis for this amendment is found in the specification on page 5, lines 17 and 22.

2. "It is unclear if inhibitor is a film former." What is meant by the term "film-forming inhibitor" is a substance that inhibits the formation of a film, specification page 6, lines 15-19. Since the term is defined in the specification, it is not indefinite. However, claim 1 has been amended to clarify the meaning.

In response to the request of the Examiner regarding the structure of chlorfenapyr a copy of the entry for chlorfenapyr in The Pesticide Manual is enclosed with this response.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin et al. US Patent 5,496,845. The basis of the rejection is that the instant claimed composition is disclosed in col. 1-4 and Table 1. This rejection is respectfully traversed.

This invention relates to a superior sprayable insecticidal composition. While not wanting to be limited by theory, the abrasive composition of the invention promote direct cuticular absorption of

insecticide, most significantly by ingestion as a result of the target insect pest grooming body parts such as antennae or tarsi in order to become free of the residual deposits. The target insect gets the residual deposits because the composition of the invention forms a dislodgeable, abrasive residue which attaches to, and irritates the crawling insect pest as it passes through or over the treated surface. This composition comprises an insecticide, an inert carrier, an abrasive, a surfactant and optionally an agent that inhibits the formation of a film.

In contrast, Martin et al discloses a suspension concentrate that is storage stable for extended periods of time over a wide range of temperatures. The concentrates comprise the insecticide, a dispersing agent, a steric stabilizer, a suspending agent, a thickening agent, an antifreeze agent, an antifoam agent, a preservative and water. Thus the compositions are not the same. The Examiner points to the disclosure in Table I. Table I shows specific ingredients for each of the required substituents in the patented composition. There is no substituent listed as an abrasive and there is no teaching in Martin that magnesium aluminum silicate is an abrasive. Accordingly the compositions of the instant invention are disclosed or suggested by Martin.

Claims 1-8, 16, 17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lovell, US Patent 5,187,184. The basis for the rejection is that the instant claimed composition and method is disclosed. This rejection is respectfully traversed.

Lovell relates to a composition containing a combination of insecticides that have a synergistic effect. The standard and typical compositions such suspension concentrates or wettable powers are disclosed but there is no teaching or suggestion of the type of composition of the instant invention wherein the residue can be taken on to body parts of the insect pest. Reconsideration is respectfully requested.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaaf et al EP 0821876 or Martin et al 5496845 in view of McLeod GB 2314774 and Knight et al WO 94/74347. The basis of the rejection is that it would have been obvious to one of ordinary skill in the art to use

the teaching of McLeod/Knight in a Schaaf sprayable composition to obtain the composition of the instant invention, and further, no showing of unexpected results has been made. This rejection is respectfully traversed.

As discussed above, neither Schaaf et al or Martin et al discloses or suggests the composition of the instant invention which has a higher amount of abrasive than the compositions disclosed by Schaaf et al or Martin et al. Claim 1 has been amended to include a limitation of the amount of abrasive in order to further distinguish over the composition of Schaaf et al or Martin et al. "Claim 12 has also been amended to limit the amount of abrasive. Support for the amendments can be found in the specification on page 4, lines 11-13. Neither Schaaf et al nor Martin et al teaches the addition of abrasive to enhance insecticidal performance. While both references disclose the use of synthetic clays or silicates as a suspending agent, the suspending agent is present in very small amounts, about 0.1% to 1% by weight. The instant invention as amended requires from about 3 to about 9% times more abrasive than the Schaaf et al or Martin et al formulation. Reconsideration is respectfully requested.

**Marked up copy showing changes made**

1. (Amended) A sprayable insecticidal composition which comprises an insecticidally effective amount of an insecticide; about 3% to about 9% of an abrasive; a low level of surfactant; an inert carrier; and optionally a film-forming inhibitor, wherein the film-forming inhibitor is an agent to inhibit the formation of a film.
  
12. (Amended) The composition according to claim 8 wherein the abrasive is calcium silicate [and is present at about 3% to 9% wt/wt].

If the Examiner believes a telephone call to the undersigned would favorably advance the prosecution of this application or narrow any outstanding issues, he is respectfully invited to call the undersigned at the telephone number indicated below.

Respectfully submitted



Barbara V. Maurer  
Reg. No. 31,278  
Attorney for Applicants  
(609) 716 - 2317

BASF Corporation  
P.O. Box 400  
Princeton, NJ 08543-0400

---

CERTIFICATION UNDER 37 CFR 1.8

I hereby certify that this paper and the documents referred to as enclosed therein are being deposited with the United States Postal Service on the date written below with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

February 23, 2001  
Date

Ann Giovanelli  
Ann Giovanelli

---